

ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

The Examiner objected to the specification for failing to provide antecedent basis for a number of claimed features. Applicant has added a number of paragraphs to describe the identified features. The described features were taken from references provided in the specification, and an affidavit to that effect is provided, as required by the Examiner. No new matter has been added. Accordingly, the Examiner's objection to the specification is moot.

Claims 1-3 and 5-14 remain in this application. Claim 4 has been canceled. Claims 15-30 have been added based on features found in the original claims and/or the specification.

Claims 4, 5, 7 and 11 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. For the following reasons, the rejection is respectfully traversed.

The rejections based on primitive grouping methods (claim 4), the scheme-based grouping technique (claim 5), and grouping auditory features according to Gestalt theory (claim 7) have all been further supported by incorporating material that had been incorporated by reference, thus making the rejection moot.

The rejection for the language "synthesizing an information signal for non-tonal speech components" of claim 11 is traversed as being self-enabling. One skilled in the art would know how to synthesize an information signal, and the claim merely restricts such synthesizing to non-tonal speech components. One skilled in the art of audio analysis would understand the meaning of the phrase "non-tonal speech components". Accordingly, one skilled in the art would understand how to practice the claimed limitation. Consequently, the rejection is improper.

Claim 3 was rejected under 35 U.S.C. §112, second paragraph, as being

indefinite. The claim has been amended, making the rejection moot.

Claims 1-3 and 8-14 were rejected under 35 U.S.C. §102(b) as being anticipated by Lindemann et al. (U.S. 5,651,071). Claims 4-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lindemann. Claims 1, 11, and 12/11 were rejected under 35 U.S.C. §102(b) as being anticipated by Strong *et al.* (U.S. 4,051,331). For the following reasons, the rejections are respectfully traversed.

Claim 1, as amended, recites that "said characterization of the signal components are performed under utilization at least of auditory-based features determined in the signal analysis phase, employing a primitive-grouping method".

The Examiner admits that Lindemann does not suggest this limitation (and Strong has not been cited as doing so), but states that it would be "obvious" to modify the Lindemann to include the feature (under the rejection for claim 3, which has been substantially incorporated into claim 1 by amendment). The Examiner argues that applicant admits that the cited methods/techniques are known in the art.

Even if, for arguments sake, the specifically cited feature is known or can be considered prior art, applicant notes that the Examiner still must provide the proper motivation for an obviousness rejection for modifying the reference, and that such motivation cannot be found in the application itself; the facts must be gleaned from the prior art. (MPEP §2142, last paragraph).

"To reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made [and] the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person." (MPEP §2142, emphasis added). Hence, it is not proper to merely combine various elements from various references and then state that this would be "obvious". The invention must be obvious "as a whole", not piecemeal, and the proper motivation must come from outside the application.

Instead, the Examiner relies on the application itself for the motivation, and thus provides "hindsight" motivation, which is always improper. Accordingly, the

Examiner must withdraw the rejection for obviousness absent the proper motivation, and thus claim 1 is patentable over the references.

Further, claims 2, 3, and 5-14, which depend, directly or indirectly, on claim 1, are thus patentable over the references for at least the same reasons as claim 1.

New claim 15 recites "characterization of the signal components is performed under utilization of at least auditory-based features determined in the signal analysis phase by employing a scheme-based grouping technique".

The Examiner admits in the Office action that the reference does not suggest this limitation (and again, Strong has not been cited as doing so), but again argues that its addition to Lindemann would be "obvious" (under the rejection for claim 4, which has been substantially incorporated into new claim 15). Instead, the Examiner states that applicant admits that the cited methods/techniques are known in the art.

Again, no proper motivation has been provided, because the Examiner relies on the application itself for motivation. Hence, new claim 15 is patentable over the references. New claims 16-27, which depend, directly or indirectly, on claim 15, are thus patentable over the references for at least the same reasons.

Finally, new claim 28 recites that "characterization of the signal components is performed under utilization of at least auditory-based features determined in the signal analysis phase to separate speech signals from non-speech signals in the signal processing phase". Neither reference suggests this limitation, and thus claim 28 is patentable over the references. Claims 19-30, which depend on claim 28, are thus patentable over the references for the same reasons as the parent claim.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Appl. No. 09/832,587
Amdt. Dated April 30, 2004
Reply to Office action of December 31, 2003

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33497.

Respectfully submitted,

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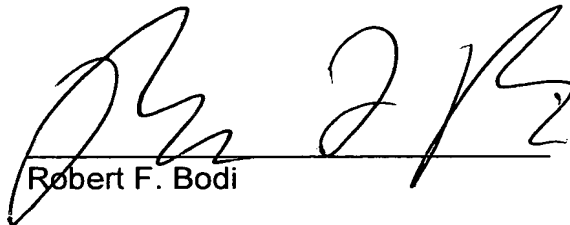
DECLARATION OF ROBERT F. BODI

Robert F. Bodi, as representative for applicants, hereby states that:

The amendments to the specification included with the Amendment dated April 30, 2004, in response to the Office action of December 31, 2003, consist of the same material taken from one or more of the references cited in the application and specifically referenced in the application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date: 4-30-04


Robert F. Bodi